

UNITED STATES DISTRICT COURT
EASTERN DISTRICT OF NORTH CAROLINA
WESTERN DIVISION
NO: 5:08-CR-00271-BR

UNITED STATES OF AMERICA

v.

ALBERT EDGERTON

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ORDER

This matter is before the court on defendant's *pro se* motion to return property. The government has filed a response to the motion.

According to defendant, on 14 August 2008, currency, coins, and personal property were seized from him by a member of the Warrenton City Police Department. (Mot., DE # 159, at 1-2.) Defendant believes that these items were turned over to the United States and that the currency seized was used to sentence him. (*Id.* at 2.) As shown by the government, the seized items remained in the possession of local law enforcement, with the personal property having been ordered destroyed and the currency and coins forfeited or levied as taxes. (Resp., Attachs., DE # 165-2 to -7.)

“Under [Federal Rule of Criminal Procedure] 41(g), this Court cannot direct a person who is not a federal government agent to turn over any property.” *Almon v. United States*, 302 F. Supp. 2d 575, 592 (D.S.C. 2004) (citation omitted). Defendant has offered nothing to show that the federal government ever had actual, or even constructive, possession of the seized items.

Accordingly, the motion is DENIED.

This 13 November 2012.

A handwritten signature in green ink, appearing to read "W. Earl Britt", is positioned above a horizontal line.

W. Earl Britt
Senior U.S. District Judge